

## REMARKS

Claims 1, 3-9 and 21-30, as amended, and new claim 31 appear in this application for the Examiner's review and consideration.

New claim 1 now positively recites that the "components are constituted of beverage forming concentrate and a beverage aroma that have a physical or chemical stability that less when mixed prior to dispensation than when separately stored and that form a beverage after being combined and diluted with a diluent". Support for this modification can be found in original claim 2 as well as in the published specification at paragraphs [0035] and [0052]. Accordingly, claim 2 has been canceled.

New claim 31 recites a preferred feature of the invention, namely that each compartment is removably connected to a respective portion of tube by a connection system comprising a fitment and a gland; and that the flow of the components from the compartments to the portions of tubes being established when each fitment is pushed and locked to its respective gland. Support for this feature can be found in the published specification at paragraphs [0036], [0069], [0070] and [0072], and by Figures 2 and 3.

Claims 1-5, 7 and 21-30 were rejected as being anticipated by US patent 5,971,210 to Brugger, while claims 8-9 were rejected as being unpatentable over Brugger.

Brugger discloses a dispenser for a liquid medium consisting of two components. The dispenser in particular comprises two accommodation compartments for two different components of the material to be dispensed. Each of the accommodation compartments has an outlet and a mixer connected thereto. The mixer is manually adjustable by means of an adjuster and changes the ratio of the supplied components of the medium. Finally, the dispenser comprises a dispenser nozzle for the medium to be dispensed, which is connected to the mixer.

Claim 1 as amended is new over Brugger because Brugger does not disclose the addition of a diluent to at least two components to form a beverage. Brugger does not disclose a dispenser that includes means for providing a diluent to the mixture of the least two components to provide the beverage product. Furthermore, Brugger does not disclose either that the components comprise a beverage-forming base concentrate and an aroma that when mixed prior to dispensation are less physically or chemically stable than when stored separately.

The problem that is solved by the present invention is based on the finding that the separate storage of liquid components to form a beverage significantly improves the storage

stability of at least one of said components and that, consequently, a higher quality beverage can be dispensed through a beverage dispenser if one separately stores the base concentrate and aroma rather than have them mixed prior to dispensation (See, page 11, lines 22-26). Therefore, the protected solution is that the packaging assembly should be provided with separately stored components; in particular, of stored components that could cause or accelerate the degradation or deterioration of the other component if they were to be stored or mixed together.

Brugger relates to a different technical problem. Brugger relates to a dispenser for a liquid medium consisting of two components in which a manually operable pump is disposed, by means of which the content of the container can be pumped to a dispenser nozzle. In particular, for sun tan lotions and the like, there is a need to individually adjust the light factor protection. For this, the invention of Brugger proposes a dispenser that can dispense the two liquid components at a freely selectable mixing ratio.

Therefore, independent claim 1 is novel over Brugger. In addition, claim 1 should be found non-obvious in view of Brugger since Brugger fails to suggest the problem of delivering a beverage that can be obtained from two separately stored components of a packaging assembly for the reason to improve shelf stability and avoid premature degradation of the beverage-forming product. Since Brugger teaches a problem of selection of mixing ratio for non-beverage products (e.g., tan lotions), and Brugger does give any hint as to the problem of stability for beverages delivered from beverage dispensers such as coffee liquid concentrate or others, the skilled artisan would not have recognized that in the area of beverage dispensing, beverage forming components may experience physical or chemical stability issues that can be resolved in designing a dispensation system that accommodates the separation of the components in the packaging assembly.

Independent claim 31 is further distinguishable from Brugger. Claim 31 encompasses a solution in which the dispensation system is designed so that the compartments containing such "storage sensitive" components can be easily loaded, in a removable manner, utilizing a connection system (i.e., fitment/gland) that enables a straightforward fluid transfer when connected. In particular, a fitment is pushed and locked to a gland so that fluid can immediately transfer to a portion of tube of the dispensation system. Such a system provides in addition to the resolved component storage stability, an improved convenience to the foodservice

operator. The system is also hygienic because there is no contact of the liquid component with the external surroundings.

In contrast, Brugger fails to suggest the importance of establishing a straight, direct, reliable and convenient fluid transfer communication from the removable packaging to permanent tube parts of the dispensation system. Furthermore, the package assembly of Brugger does not comprise removably connected compartments; each of them utilizing a connection system formed of a fitment and gland that when connected together, i.e., the fitment being pushed and locked to the respective gland, enables the liquid component to flow in the portions of tube of the dispensation system. In Brugger, nothing suggests that each compartment (2, 3) should be removably connected to the head (4) using a connection system of a fitment and a gland that complementary connects to establish liquid flow under a push-and-lock principle. As apparent in Brugger, suction lines (9, 10) projects into accommodation compartment (2, 3); and the suction lines have simple outlets that connect to the piston pumps (17, 18). This arrangement has thus no specific connection system to establish fluid communication between the component storage and the mixing device.

Therefore, claim 31 should also be found novel and non-obvious over Brugger.

Claim 6 was rejected over the combination of Brugger with US patent 4,690,307 to Hogan. Applicants traverse this rejection.

Hogan is relied upon for his disclosure of a compartmented chamber, but he also discloses a dispensing system that includes a support stand adapted to slidably support at least one portable modular dispenser housing in which is mounted a flexible fluid impervious container having a flowable food product contained in sealed relation therein and to which a compressible flow tube is affixed having a discharge fitment thereon facilitating removal of product from the container. A rotor is mounted within the dispenser housing for cooperation with the compressible flow tube to enable controlled portion dispensing of product from the discharge fitment through actuation of an external operating handle.

As noted above, Brugger does not disclose or teach the invention of independent claims 1 and 31, and Hogan's disclosure does nothing to remedy the deficiencies of Brugger. Hogan's disclosure of a compartment chamber does not provide the missing disclosure as to the type of beverages to be dispensed, as recited in claim 1, or the use of fitments and glands to generate flows to the components to form, with a diluent, the beverage, as recited in claim 31.

Accordingly, applicants' dispenser is patentably distinct from the combination of Bruger and Hogan. This rejection has been overcome and should be withdrawn.

In view of the above, the entire application is believed to be in condition for allowance, early notification of such would be appreciated. Should the Examiner not agree, a personal or telephonic interview is respectfully requested to discuss any remaining issues in order to expedite the eventual allowance of the claims.

Respectfully submitted,

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Date

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